

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Carriage of the Transmissions	)	CS Docket No. 98-120
of Digital Television Broadcast Stations	)	
	)	
Amendments to Part 76	)	
of the Commission's Rules	)	

**COMMENTS OF THE  
NETWORK AFFILIATED STATIONS ALLIANCE**

The Network Affiliated Stations Alliance ("NASA"),<sup>1</sup> by its attorneys, submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Commission on July 10, 1998 in the above-referenced proceeding.<sup>2</sup> In the NPRM, the Commission requested comments on a variety of issues related to the cable carriage of digital signals, including how it could fulfill the statutory goals enumerated in the Communications Act of 1934, as amended, and how it could strengthen competition in the broadcast and cable industries as they

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<sup>1</sup> NASA is an informal coalition of the affiliate associations of the ABC, CBS and NBC Television Networks. NASA member stations are responsible for programming decisions that affect thousands of communities within the U.S.

<sup>2</sup> Notice of Proposed Rulemaking, CS Docket No. 98-120, FCC 98-153 (1998).

transition to digital operations. Further, the Commission sought comment on whether it should repeal existing network non-duplication and syndicated exclusivity rules.<sup>3</sup> Although NASA generally supports the Commission's stated objectives, it believes that repeal of the network non-duplication and syndicated exclusivity provisions would cause economic harm to broadcasters and compromise competition in the video programming marketplace. Accordingly, NASA urges the Commission to retain the existing network non-duplication and syndicated exclusivity rules and expand the definition of "television broadcast station" to include reference to the digital television table of allotments.<sup>4</sup>

The Commission has established that the network non-duplication rules protect programming that affiliates have contracted for and "preserve the value of programmers' product in order to maintain their ability to deliver diverse programming to consumers."<sup>5</sup> The Commission has also found that the absence of

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<sup>3</sup> 47 C.F.R. §§ 76.92 and 76.151.

<sup>4</sup> As currently written, the network non-duplication and syndicated exclusivity rules apply to "television broadcast stations," which are defined by reference to the table of NTSC allocations. See 47 C.F.R. §§ 76.5 and 73.606. This reference should be changed to include the digital table of allocations in Section 73.622 as well. The statutory provision triggering the present rulemaking procedure authorizes the Commission to amend or adopt rules that are necessary to ensure cable carriage of the digital broadcast signals of local commercial television stations. 47 U.S.C. § 534(b)(4)(B).

<sup>5</sup> In the Matter of Telephone Company-Cable Television Cross Ownership  
(continued...)

syndicated exclusivity would prohibit both broadcasters and programmers from capturing the full value of programs, which would cause a decline in the quality and diversity of syndicated programs available to broadcasters, which in turn would reduce the quality and diversity of programming available to consumers.<sup>6</sup> These detrimental effects to the welfare of consumers would occur whether the relevant programming contracts were secured for digital or analog broadcasts.

Accordingly, NASA urges the Commission not to deprive broadcasters of the full value of programming for which they have contracted as well as one of their most effective competitive tools, exclusivity. The Commission should retain the existing program exclusivity rules to continue to protect the integrity of local broadcast markets, the network-affiliate system, and the viability of free over-the-air broadcasting.

For the aforementioned reasons, NASA asks the Commission to retain the existing network non-duplication and syndicated exclusivity rules and

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<sup>5</sup> (...continued)  
Rules, CS Docket No. 96-46, Report & Order and Notice of Proposed Rulemaking, 11 FCC Rcd 14369, ¶ 44 (1996).

<sup>6</sup> In the Matter of Amendment of Parts 73 and 76 of the Commission's Rules relating to program exclusivity, GEN Docket No. 87-24, Report and Order, 3 FCC Rcd 5299, ¶ 71 (1988).

expand the definition of "television broadcast station" to include reference to the digital television table of allotments.

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